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## SENATE BILL No. 321

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-2.

**Synopsis:** Taxation of federal retiree benefits. Provides an adjusted gross income tax deduction for the part of a federal government pension (including a military pension) equal to the difference between: (1) the maximum benefits payable under Social Security that could have been excluded from federal gross income for the year; minus (2) the Social Security benefits actually received by the taxpayer during the year. Provides that a taxpayer may not claim both this deduction and the existing military service deduction or federal civil service deduction.

**Effective:** January 1, 2003.

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### Skillman

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January 8, 2002, read first time and referred to Committee on Pensions and Labor.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 321

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3-2-3.7 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3.7. **(a) Subject**  
3       **to subsections (b) and (c)**, each taxable year, an individual is entitled  
4       to an adjusted gross income tax deduction equal to the remainder of:

5               (1) the first two thousand dollars (\$2,000) which is received by  
6               the individual during the taxable year from a federal civil service  
7               annuity, and which is included in adjusted gross income under  
8               Section 62 of the Internal Revenue Code; minus

9               (2) the total amount of Social Security benefits and railroad  
10              retirement benefits received by the individual during the taxable  
11              year.

12       ~~However,~~

13       **(b)** The individual is only entitled to the deduction provided by this  
14       section if the individual is at least sixty-two (62) years of age before the  
15       end of the taxable year.

16       **(c) A taxpayer may not claim both the deduction provided by**  
17       **this section and the deduction available under section 3.9 of this**



chapter.

SECTION 2. IC 6-3-2-3.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 3.9. (a) As used in this section, "applicable maximum benefit amount" means the following:**

(1) In the case of an unmarried individual, the maximum individual Social Security benefit.

(2) In the case of a joint return, one hundred fifty percent (150%) of the maximum individual Social Security benefit.

(3) In the case of a married individual filing a separate return, seventy-five percent (75%) of the maximum individual Social Security benefit.

(b) As used in this section, "maximum excludable Social Security benefits" means an amount equal to that part of the applicable maximum benefit amount for the taxpayer for the taxable year that would be excluded from federal gross income under the Internal Revenue Code if the benefit amount were treated as Social Security benefits (within the meaning of Section 86(d) of the Internal Revenue Code) received during the taxable year.

(c) As used in this section, "maximum individual Social Security benefit" means, with respect to a taxable year, the maximum total amount that could be paid for all months in the calendar year ending in the taxable year as old age insurance benefits under Section 202(a) of the federal Social Security Act (42 U.S.C. 402(a)), without regard to any reduction, deduction, or offset under Section 202(k) or Section 203 of the federal Social Security Act (42 U.S.C. 402(k) or 42 U.S.C. 403), to any individual who attained retirement age (as defined in Section 216(l) of the federal Social Security Act (42 U.S.C. 416(l)), and has filed an application for the benefits by the first day of the calendar year. However, in the case of an individual who receives a qualified governmental pension for less than a full taxable year, the maximum individual Social Security benefit for the individual for the year shall be reduced as provided in regulations prescribed by the United States Department of the Treasury.

(d) As used in this section, "public retirement system" means any pension, annuity, retirement, or similar fund or system established by the United States, including military retirement systems.

(e) As used in this section, "qualified governmental pension" means any pension or annuity received under a public retirement



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system to the extent the pension or annuity is not attributable to service that:

(1) constitutes employment for purposes of Chapter 21 of the Internal Revenue Code (relating to the Federal Insurance Contributions Act); or

(2) is covered by an agreement made under Section 218 of the federal Social Security Act (42 U.S.C. 418).

(f) Subject to subsection (g), each taxable year an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for amounts that are:

(1) received by the individual or surviving spouse as a qualified governmental pension for service performed by the individual; and

(2) included in federal adjusted gross income.

(g) The deduction under subsection (f) for a taxable year may not exceed the result of:

(1) the maximum excludable Social Security benefits of the individual or surviving spouse for the year; minus

(2) the Social Security benefits (within the meaning of Section 86(d) of the Internal Revenue Code) that:

(A) are received by the individual or surviving spouse during the taxable year; and

(B) are excluded from federal gross income.

SECTION 3. IC 6-3-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. Each taxable year, an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for the first two thousand dollars (\$2,000) of income, including retirement or survivor's benefits, received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard. However, a person who is less than sixty (60) years of age on the last day of the person's taxable year, is not, for that taxable year, entitled to a deduction under this section for retirement or survivor's benefits. **A taxpayer may not claim both this deduction and the deduction available under section 3.9 of this chapter.**

SECTION 4. [EFFECTIVE JANUARY 1, 2003] (a) IC 6-3-2-3.9, as added by this act, applies only to taxable years beginning after December 31, 2002.

(b) IC 6-3-2-3.7 and IC 6-3-2-4, both as amended by this act,

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1      **apply only to taxable years beginning after December 31, 2002.**

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